

CHAPTER 48

AN ACT imposing a fee on mobile telecommunications customers and telephone exchange customers for funding certain costs of the 9-1-1 system and emergency response, supplementing chapter 17C of Title 52 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.52:17C-17 Definitions relative to fees on mobile telecommunications customers.

1. As used in this act:

"Home service provider" means the facilities-based carrier or reseller with which the customer contracts for the provision of mobile telecommunications service;

"Mobile telecommunications company" mean a carrier providing mobile telecommunications service in this State;

"Mobile telecommunications service" means commercial mobile radio service, as defined in section 20.3 of title 47 of the Code of Federal Regulations as in effect on June 1, 1999 charged by a customer's home service provider and provided to a customer with a place of primary use in this State and which provides real-time, two-way voice service that is interconnected with the public switched network;

"Place of primary use" means the street address representative of where the customer's use of the mobile telecommunications service primarily occurs, which shall be the residential street address or the primary business street address of the customer and within the licensed service area of the home service provider. For the purposes of determining the place of primary use, the terms used have the meanings provided pursuant to the federal "Mobile Telecommunications Sourcing Act," 4 U.S.C. s.124 (Pub.L.106-252);

"Telephone exchange company" means a carrier providing telephone exchange service in this State;

"Telephone exchange service" means that term as defined in subsection (47) of 47 U.S.C. s.153, as well as any other technology, including but not limited to, voice over Internet telephony or cable telephony, except mobile telecommunications service, that provides access through interconnection to the public switched telephone network to 9-1-1 service; and

"Voice grade access" means a functionality that enables a user of telecommunications services to transmit voice communications, including signalling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming call.

C.52:17C-18 Fee imposed on mobile telecommunications service customers; exemptions; administration.

2. a. (1) There is imposed on each mobile telecommunications service customer, charged by a mobile telecommunications company for mobile telecommunications service for each voice grade access telephone number provided to the customer billed by or for the customer's home service provider and provided to a customer with a place of primary use in this State, a fee of \$0.90 on any periodic bill received by the customer for each voice grade access service number provided as part of the mobile telecommunications service.

(2) There is imposed on each customer charged by a telephone exchange company for each voice grade access service line provided to that customer that has a service address in this State, a fee of \$0.90 on any periodic bill received by the customer for each voice grade access service line provided as part of that telephone exchange service. Each Private Branch Exchange (PBX) trunk or Centrex trunk equivalent shall constitute an individual and separate subscribed service line. Any customer that has been determined by its telephone exchange company to be enrolled in the Lifeline Telecommunication program, or in receipt of Lifeline Telecommunication or Universal Service Fund benefits for a periodic bill shall be exempt from the fee on that periodic bill. State government agencies, and county and municipal governments and their agencies, and school districts shall be exempt from the fee imposed on customers of telephone exchange companies for each voice grade access service line provided as part of telephone exchange service provided to that customer at a service address in this State for periodic bills issued to those customers on and after January 1, 2005.

b. The fee imposed by paragraphs (1) and (2) of subsection a. of this section shall be collected by the mobile telecommunications company or telephone exchange company providing the applicable service to its customers upon payment of any periodic bill for such service. This section shall not be deemed as extending to a telephone exchange company or mobile telecommunications company any obligation or authority otherwise

not provided pursuant to law, to take legal action to enforce the collection of the fee imposed upon the customer. Any such action shall be brought by the State against the customer with any cooperation requested by the State of the telephone exchange company or mobile telecommunications company as the State deems necessary.

c. The fees collected pursuant to subsection b. of this section shall be collected monthly and reported and paid to the director on a quarterly basis in a manner prescribed by the Director of the Division of Taxation in the Department of the Treasury, which notwithstanding the provisions of subsection b. of section 1 of P.L.1992, c.140 (C.54:48-4.1) if any, to the contrary, shall be subject to the provisions of P.L.1992, c.140 as the director shall prescribe, and the State Treasurer shall credit the fee revenue to the "9-1-1 System and Emergency Response Trust Fund Account" established pursuant to section 3 of P.L.2004, c.48 (C.52:17C-19). The administration, collection and enforcement of the fee imposed by this act shall be subject to the provisions of the "State Uniform Tax Procedure Law," R.S.54:48-1 et seq., to the extent that the provisions of such law are not inconsistent with any provision of this act.

d. A telephone exchange company that provides telephone exchange service to the State government or any State government agency, a county or municipal government or any of its agencies, or a school district that is exempt for bills issued on and after January 1, 2005, shall be entitled after that date to a credit in an amount as the Director of the Division of Taxation shall determine within 60 days of application, against the amount of fees collected during and due to be paid over for the calendar quarter commencing on that date, for the reasonable costs certified by the telephone exchange company to have been incurred by the company for changes made to its billing system that are necessary to implement the exemption. The director shall consult with the Board of Public Utilities to ascertain from the board the reasonableness of the costs claimed to be incurred. The director and the board may adopt regulations necessary to administer the credit.

C.52:17C-19 "9-1-1 System and Emergency Response Trust Fund Account."

3. a. There is established in the Department of the Treasury within the General Fund a special account to be known as the "9-1-1 System and Emergency Response Trust Fund Account."

b. Funds credited to the "9-1-1 System and Emergency Response Trust Fund Account" shall be annually appropriated for the purposes of paying: (1) eligible costs pursuant to the provisions of sections 13 and 14 of P.L.1989, c.3 (C.52:17C-13 and 52:17C-14); (2) the costs of funding the State's capital equipment (including debt service), facilities and operating expenses that arise from emergency response; (3) the cost of emergency response training, including any related costs or expenses of the Office of Emergency Management in the Division of State Police in the Department of Law and Public Safety; (4) the cost of operating the Office of Emergency Telecommunications Services created pursuant to section 3 of P.L.1989, c.3 (C.52:17C-3); (5) the cost of operating the 9-1-1 Commission created pursuant to section 2 of P.L.1989, c.3 (C.52:17C-2), (6) any costs associated with implementing any requirement of the Federal Communications Commission concerning 9-1-1 service that is not otherwise allocated to a carrier and not eligible for reimbursement under law or regulation, (7) any costs associated with planning, designing or implementing an automatic location identification technology that is not otherwise allocated to a wireless carrier and not eligible for reimbursement under law or regulation; and (8) any costs associated with planning, designing or acquiring replacement equipment or systems (including debt service) related to the enhanced 9-1-1 network as defined by subsection e. of section 1 of P.L.1989, c.3 (C.52:17C-1).

C.52:17C-20 Itemization, identification of fee on customer bills.

4. A mobile telecommunications company and a telephone exchange company collecting the fee imposed pursuant to section 2 of P.L.2004, c.48 (C.52:17C-18) shall itemize and separately identify the fee set forth on each periodic bill received by the customer as the "9-1-1 System and Emergency Response Assessment," which identification may be abbreviated as "911System/Emerg.Resp.Fee." Provided however, that a mobile telecommunications company or telephone exchange company may commence the separately identified itemization of the periodic charge on a periodic bill issued to a customer not later than October 1, 2004, but only if the customer's first periodic bill issued on and after that date includes the separately identified itemization for the periodic bills issued for the customer during the months of July, August and September of 2004, if any, and the fee imposed for the bills for those months is also set forth separately for collection thereon from the customers.

5. This act shall take effect immediately and apply to bills issued for billing periods ending on or after July 1, 2004; except that for bills issued for Private Branch Exchange (PBX) systems, Centrex systems or other similar telecommunications services, this act shall apply to such bills issued for billing periods ending on or after August 1, 2004.

Approved June 29, 2004.